

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DENISE ANN ROUSSIN,

Plaintiff,

v.

Case No.: 2:20-cv-905-SPC-MRM

COMMISSIONER OF SOCIAL
SECURITY and UNITED STATES
ATTORNEY,

Defendants.

OPINION AND ORDER¹

Before the Court is United States Magistrate Judge Mac R. McCoy's Report and Recommendation. ([Doc. 21](#)). Judge McCoy recommends reversing and remanding the decision of the Commissioner of the Social Security Administration under sentence four of [42 U.S.C. § 405\(g\)](#). Neither party objects to the Report and Recommendation, and the time to do so has expired.

After conducting a careful and complete review of the findings and recommendations, a district judge "may accept, reject, or modify, in whole or in part," the magistrate judge's R&R. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). In the absence

¹ Disclaimer: Documents hyperlinked to CM/ECF are subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide, nor does it have any agreements with them. The Court is also not responsible for a hyperlink's availability and functionality, and a failed hyperlink does not affect this Order.

of specific objections, there is no requirement that a district judge review the R&R *de novo*. See [Garvey v. Vaughn](#), 993 F.2d 776, 779 n.9 (11th Cir. 1993). Instead, when parties don't object, a district court need only correct plain error as demanded by the interests of justice. See, e.g., [Symonette v. V.A. Leasing Corp.](#), 648 F. App'x 787, 790 (11th Cir. 2016); [Thomas v. Arn](#), 474 U.S. 140, 150-52 (1985). Plain error exists if (1) "an error occurred"; (2) "the error was plain"; (3) "it affected substantial rights"; and (4) "not correcting the error would seriously affect the fairness of the judicial proceedings." [Farley v. Nationwide Mut. Ins.](#), 197 F.3d 1322, 1329 (11th Cir. 1999).

After examining the file independently and upon considering Judge McCoy's findings and recommendations, the Court accepts and adopts the Report and Recommendation.

Accordingly, it is now

ORDERED:

The Report and Recommendation ([Doc. 21](#)) is **ACCEPTED** and **ADOPTED** and the findings incorporated herein.


The decision of the Commissioner of the Social Security Administration pursuant to sentence four of [42 U.S.C. § 405\(g\)](#) is **REVERSED AND REMANDED**.

1. The Commissioner is instructed on remand to do the following:

Re-evaluate whether work exists in significant numbers that Plaintiff can perform in light of her RFC, specifically identifying and resolving any apparent conflicts between the testimony of the VE and the DOT.

2. Any application for fees, costs, or expenses must comply with the Court's Standing Order on Management of Social Security Cases, *In re Administrative Orders of the Chief Judge*, Case No. 3:21-mc-1-TJC, Doc. 43 (Dec. 7, 2021).
3. The Clerk is **DIRECTED** to enter judgment, deny any pending motions as moot, terminate any deadlines, and close the case.

DONE and **ORDERED** in Fort Myers, Florida on January 3, 2022.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record